

Proposed Final Rulemaking Text for the Designated Approved Collector Provision

Please note the following clarifications about formatting in this document:

For Articles 1 and 2.2, the strikethrough and underline portions represent the revisions that the Office of Administrative Law approved as Emergency Regulations on March 16, 2017 (OAL Matter Number 2017-0309-02). There are no **additional** changes proposed for Articles 1 and 2.2.

The revisions shown in strikethrough or underline in Article 2.0 are new, proposed changes to the current Electronic Waste Recovery and Recycling regulations.

In Article 7, text shown in strikethrough or underline are new, proposed changes to the approved Emergency Regulations [March 16, 2017 (OAL Matter Number 2017-0309-02)]. For purposes of the upcoming permanent rulemaking process, all of Article 7 is considered new language.

Article 1. General

§ 18660.5. Definitions.

(18) "Designated Approved Collector" means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government in accordance with Article 7 of this Chapter ~~and who, in the course of providing the services for the local government, would not be subject to the source documentation requirements pursuant to Section 18660.20(j)(1)(8) of this Chapter.~~

...

(33) "Proof of ~~d~~Designation" means a document issued by a California Local Government to a Designated Approved Collector in accordance with Article 7 of this Chapter. ~~letter or other document that must be secured by a designated approved collector from a California local government that, at a minimum, specifies the following information:~~

- ~~(A) The beginning and end dates of the designation.~~
- ~~(B) The geographic area within which the designated approved collector is providing CEW collection services for the local government and the locations(s) at which the collection service is provided.~~
- ~~(C) The customer type to be served by the designated approved collector (i.e. residential, commercial, etc).~~
- ~~(D) The nature of collections activities to be provided by the designated approved collector (i.e. drop off receipt, curbside service, illegal disposal clean up, etc).~~
- ~~(E) Contact information for the designating authority.~~
- ~~(F) If the proof of designation secured by the designated approved collector is a document other than a letter from the local government, the proof must also include the designated approved collector's written notification to the local government that such~~

~~other document has been used. The written notification provided to the local government must be accompanied by a copy of the document being used to demonstrate designation.~~

~~(G) If, after January 1, 2005, and before the effective date of this regulation, a designated approved collector has secured a document from a local government that does not meet the definition of proof of designation as specified in this Section, such document may be used by a designated approved collector to comply with applicable requirements of this Chapter through March 31, 2006.~~

Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, records, Audits and Net Cost Report

§ 18660.6. Applicability and Limitations

...

(c) Limitations on the Sources of CEWs and CEWs eligible for payments:

- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
- (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
- (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
 - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
 - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a Local Government, as defined in Section §18660.47, or its Designated Approved Collector; or
 - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.

Article 2.2. Electronic Waste Payment System - Business Requirements

§ 18660.20. Requirements for an Approved Collector.

...

(h) An approved collector shall provide to any approved collector or approved recycler to whom it transfers CEWs information on the origin (California or non-California) and cancellation status of CEWs transferred, including but not limited to the following:

- (1) Signed statement listing the sources(s) of the transferred CEWs as recorded pursuant to subsection (j) of this section.
- (2) A copy(ies) of the applicable portions of the collection log specified in subsection (j) of this section that describe the collection activities that resulted in the transferred CEWs.

- (3) Written description of any activity, such as storage, repair, refurbishment, resale, reuse, transfer, packaging and/or consolidation, that explains any discrepancy between the CEWs transferred and the CEWs collected as recorded in a log specified in subsection (j) of this section.
- (4) A copy of any applicable Pproof of Ddesignaion, transmitted pursuant to and used in accordance with Article 7 of this Chapter, associated with CEWs collected while acting as a designated approved collector for a local government.

...

~~(k) An approved collector that is acting as a designated approved collector for a local government shall do the following:~~

- ~~(1) Secure proof of designation as defined in Section 18660.5(a)(33) of this of this Chapter.~~
- ~~(2) Provide a copy of the applicable proof of designation to another approved collector or approved recycler at the time CEWs are transferred from the designated approved collector to another approved collector or approved recycler.~~
- ~~(3) A designated approved collector shall be relieved only of the source documentation requirement specified by Section 18660.20(j)(1)(B) of this Chapter only for those collection activities that occur within the designation as specified in subsection k(1) of this section.~~

Article 7. Designated Approved Collectors

§ 18660.47. Definitions.

- (a) For the purposes of this Chapter, the following shall apply:
 - (1) "Designation" means an arrangement that a Local Government initiates with an approved collector so that the approved collector shall act as a Designated Approved Collector and provide CEW collection services on behalf of the Local Government. The Designation constitutes a local program subject to Form 303 reporting requirements pursuant to Section 18751.2 of this Title. Details and evidence of the Designation are specified in a Proof of Designation pursuant to Section 18660.49(b).
 - (2) "Local Government" means a California city, county, city and county, a joint powers authority, or public service district responsible for household hazardous waste or residential waste management planning or services.

§ 18660.48. Additional Requirements for Designated Approved Collectors.

- (a) A Designated Approved Collector is subject to all collection log requirements pursuant to Section 18660.20(j)(1), except those CEW collection activities occurring under a Designation are not subject to the requirements in Section 18660.20(j)(1)(B). When conducting CEW collection activities that fall outside the scope or jurisdiction of a Designation, Aall other requirements in this Chapter that apply to approved collectors also apply to Designated Approved Collectors.

(b) Pursuant to 18660.20 (j)(1), a Designated Approved Collector, while acting on behalf of a Local Government, shall record as a separate transfer the CEW collection activities that fall within the scope and jurisdictional boundary of each Designation.

(cd) A Designated Approved Collector shall provide evidence of the applicable Proof of Designation to another approved collector or approved recycler at the time CEW and associated collection documentation are transferred from the Designated Approved Collector to another approved collector or approved recycler.

~~(db)~~ A Designated Approved Collector shall provide the Local Government with a report of all CEW collection activities conducted pursuant to the Designation at least annually on or before September 1 of every calendar year covering the preceding reporting period of July 1 through June 30 for the purposes of incorporating as warranted that information in the Local Government Form 303 reporting.

(1) The Local Government may require more frequent CEW collection activity reports from a Designated Approved Collector.

(2) The Local Government may establish a format for the report or require the CEW collection activity reports to be sent to additional parties.

(23) A Designated Approved Collector shall upon request provide CalRecycle a copy of any reports provided, or that should have been provided, to the Local Government.

~~(c) A Designated Approved Collector, while acting on behalf of a Local Government, shall only conduct CEW recovery activities that fall within the scope and jurisdictional boundary of the Designation as specified in the Proof of Designation.~~

~~(d) A Designated Approved Collector shall provide evidence of the applicable Proof of Designation to another approved collector or approved recycler at the time CEW and associated collection documentation are transferred from the Designated Approved Collector to another approved collector or approved recycler.~~

§ 18660.49. Proof of Designation.

(a) A Local Government shall ~~issue~~ establish a Designation by transmitting, pursuant to ~~subsection(c),~~ a Proof of Designation at least 30 days in advance of any CEW collection activity conducted by the Designated Approved Collector pursuant to the Designation.

(b) The Proof of Designation, as defined in Section 18660.5(a)(33), shall establish the scope of the Designation and include the following information:

(1) The name of the Designated Approved Collector and their associated CEW identification number;

(42) The beginning start and end dates of the Designation.;

(A) The start date is the first day the collection activities may occur.

(B) The start date must be a minimum of 30 days after the transmittal of the Proof of Designation.

(C) CalRecycle may modify the start date to ensure that the start date is at least 30 days from transmittal of the Proof of Designation.

(D) The end date shall not be modified.

(23) The geographic area within which the Designated Approved location(s) where the collection activities may occur on behalf of the Local Government. This includes:

(A) The geographic area within which the Designated Approved Collector may provide CEW collection services; and on behalf of the Local Government

(B) Any specific sites at which permanent drop off the collection services is will be provided;

(34) The method and description of CEW collection activities to be provided by the Designated Approved Collector (e.g., permanent drop-off receipt, curbside service, illegal disposal clean-up, or temporary special events);

(45) Contact information for the Local Government designating authority that includes name, title, phone number, email address, and mailing address. The contact shall be a representative of the Local Government that is duly authorized and empowered to execute agreements or contracts related to waste management on behalf of the jurisdiction;

(56) A certification signed and dated by a representative the designating authority of the Local Government stating the following:

(A) The ~~representative~~designating authority is authorized to execute agreements or contracts related to waste management on behalf of the Local Government; and

(B) The ~~representative~~designating authority has read and understands all applicable laws and regulations governing the Electronic Waste Recovery and Recycling Program; and

(C) The ~~representative~~designating authority agrees that the Local Government shall operate in compliance with those applicable laws and regulations; and

(D) The ~~representative~~designating authority certifies that the Proof of Designation contains true and correct information to the best of the representative's knowledge.

(7) Contact information for the local government person responsible for the management of the designation if different from the designating authority that includes name, title, phone number, email address, and mailing address. A point of contact name, title, phone number, and email address of the local government person responsible for the management of the designation if different from the designating authority.

(68) Contact information for the Designated Approved Collector that includes name, title, phone number, and email address.

(9) A certification statement signed and dated by a representative of the Designated Approved Collector affirming stating the following:

(A) ~~T~~he representative is an authorized signatory listed in the application for approval pursuant to Section 18660.11; and

~~(B) that t~~The Designated Approved Collector agrees to operate in compliance with the requirements of the Electronic Waste Recovery and Recycling Program and all applicable laws and regulations.

(c) When a Designation is issued by the Local Government, the Local Government shall transmit a copy of the Proof of Designation to CalRecycle either by electronic mail or by mail ~~postmarked at least 30 days in advance of any use of the Designation to:~~

CALRECYCLE

ATTENTION: ELECTRONIC WASTE RECYCLING PROGRAM,

PARTICIPANT MANAGEMENT, MS #9

1001 I STREET, P.O. BOX 4025

SACRAMENTO, CA 95812-4025

EWASTEDSIGNATIONS@CALRECYCLE.CA.GOV

(d) A Designation is considered valid only when the requirements in subsection (a), (b), and (c) of this section have been met.

(1) An invalid Designation may be modified by the Local Government by notifying CalRecycle in writing of any changes to information contained in the Proof of Designation pursuant to subsection (b) of this section.

(2) The Proof of Designation may be modified to add or remove information or complete missing information.

~~(d) A valid designation issued prior to the effective date of this regulation may remain valid for no more than 180 days after the effective date of this regulation.~~

~~(e) A Local Government that has issued a valid designation to a Designated Approved Collector prior to the effective date of this regulation shall issue a new Designation pursuant to this Article within 150 days of the effective date of this regulation.~~

~~(fe)~~ (f) A Designated Approved Collector shall immediately notify the Local Government and CalRecycle in writing of any changes in the Designated Approved Collector's operational status contact information or operational status contact information identified pursuant to subsections (b)(8).

~~(gf)~~ (g) A Local Government shall immediately notify CalRecycle in writing of any changes in a valid Designation regarding representatives identified pursuant to subsections (b)(4), (b)(5), (b)(6), (b)(7), or (b)(8) of this section.

~~(hg)~~ (h) Prior to the end date of a valid Designation, at the designating authority of the Local Government may amend the Designation to modify the scope established pursuant to subsections (b)(1), (b)(2), or (b)(3) or (b)(4) of this section.

(1) The Local Government shall immediately notify CalRecycle and the Designated Approved Collector in writing of any changes in scope enacted pursuant to this subsection.

(2) The Designated Approved Collector shall not act on any changes in the scope of a Designation prior to the notifications required in subsection (hg)(1) of this section.

§ 18660.50. ~~Invalidation~~Termination of Designation.

(a) A Local Government may terminate a Designation at its discretion. If a Local Government terminates a Designation, it shall immediately notify the Designated Approved Collector and CalRecycle of the effective date of the termination.

(b) CalRecycle may terminate a Designation if the Local Government or the Designated Approved Collector violates any applicable laws or regulations, including the requirements in this Article. If CalRecycle terminates a Designation, it shall immediately notify the Designated Approved Collector and the Local Government of the effective date of the termination.

~~(ac)~~ (c) A Designation issued to a Designated Approved Collector shall be invalidterminated if the collector's approval status is expired, suspended, or revoked, or if the collector withdraws from being an approved collector.

(1) A Designation invalidatedterminated due to expiration or suspension of a collector's approval status shall be valid againre-established upon reinstatement by CalRecycle of a collector's approval status unless a Local Government acts to terminate the Designation pursuant to section 18660.51(a).

(2) A Designation invalidatedterminated due to a revocation of a collector's approval status shall be re-established upon reinstatement by CalRecycle of a collector's approval status if the collector is successful in an appeal of their revocation pursuant to 18660.19.

(3) A Designation terminated due to a collector's revocation or withdrawal from being

an approved collector may be re-issued as a new Designation pursuant to this Article at the discretion of the Local Government once the approval status of the collector has been restored.

~~(b)~~ (d) An approved collector whose Designation is ~~invalid~~terminated pursuant to subsection ~~(a)~~(c) shall immediately notify the Local Government that issued the Designation in writing of the circumstances leading to the change in the collector's approval status and that the Designation is invalid until the approval status is reinstated.

~~§ 18660.51. Termination of Designation.~~

~~(a) A Local Government may terminate a Designation at its discretion. If a Local Government terminates a Designation, it shall immediately notify the Designated Approved Collector and CalRecycle of the effective date of the termination.~~

~~(b) CalRecycle may terminate a Designation if the Local Government or the Designated Approved Collector violates any applicable laws or regulations, including the requirements in this Article. If CalRecycle terminates a Designation, it shall immediately notify the Designated Approved Collector and the Local Government of the effective date of the termination.~~